

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KEVIN LEE ESTES,

Plaintiff,

vs.

HEARINGS OFFICER SCANTLIN,
LT. H.C. PENROSE, SGT. S KULM,
CAPT. R. THOMPSON, CAPT. S.
MURPHY, C/O NICHOLAS A.
LEAVITT and ASSOCIATE
SUPERINTENDENT DAVID
BAILEY

Defendants.

NO: CV-12-5058-JPH

ORDER AFFIRMING ORDER,
ADOPTING REPORT AND
RECOMMENDATION, AND
DISMISSING DEFENDANTS
DEPARTMENT OF CORRECTIONS
AND COYOTE RIDGE
CORRECTIONS CENTER

BEFORE THE COURT is Plaintiff's Objection, ECF No. 37, to the Report and Recommendation to dismiss Defendants Department of Corrections and Coyote Ridge Corrections Center from this action, ECF No. 27. Plaintiff simultaneously filed an Objection, ECF 38, to Magistrate Judge Hutton's Order denying his discovery request, denying his motion to consolidate cases and the

ORDER AFFIRMING ORDER, ADOPTING REPORT AND
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OF CORRECTIONS AND COYOTE RIDGE CORRECTIONS CENTER -- 1

1 Second Order to Amend or Voluntarily Dismiss, ECF No. 29. Plaintiff submitted
2 a "Second Amended Complaint" on July 9, 2012.

3 Magistrate Judge Hutton's Order regarding discovery, consolidation and
4 amendment of the complaint dealt with non-dispositive pretrial matters. Therefore,
5 the Court liberally construes Mr. Este's Objection, ECF No. 38, as a timely filed
6 written notice of appeal from a magistrate judge's determination under LMR 3(b),
7 Local Rules for the Eastern District of Washington.

8 Plaintiff appears to argue that he should not have to amend his complaint to
9 present a short and plain statement of his claims. He asserts, "the violations being
10 to [sic] numerous to condense one years [sic] worth into a few short paragraphs
11 and be specific." He also contends that the Court should consider his 182 pages of
12 documentation as support for his assertion that he has exhausted all his available
13 administrative remedies.

14 The present litigation began as an apparent claim that Plaintiff was denied
15 access to the courts when his legal papers were confiscated in April 2012. It has
16 now morphed into an attempt to incorporate all of the grievances and tort actions
17 Plaintiff has filed in the past year, including a pending Labor and Industries claim
18 resulting from a work-related injury. The Court, however, will not wade through
19 scores of pages of documents in search of claims that Plaintiff has failed to present.

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ORDER AFFIRMING ORDER, ADOPTING REPORT AND
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1 Plaintiff's efforts to settle other litigation is irrelevant to a claim that he was
2 denied access to the courts based on the confiscation of legal materials on April 18,
3 2012. In his First Amended Complaint, Plaintiff failed to demonstrate "actual
4 injury" to his access to the court or to show that he had fully exhausted his access
5 to court claim before submitting his initial complaint on April 26, 2012.

6 Having reviewed Plaintiff's objection, the Court finds the Order issued by
7 Magistrate Judge Hutton is not clearly erroneous or contrary to law. Accordingly,
8 this Court **AFFIRMS** the Order Denying Discovery Requests, Denying Motion to
9 Consolidate Cases, and Second Order Directing Plaintiff to Amend or Voluntarily
10 Dismiss, ECF No. 29.

11 Plaintiff also objects to the recommended dismissal of Defendants
12 Department of Corrections and Coyote Ridge Corrections Center. ECF No. 37.
13 As clearly articulated by the Magistrate Judge, "neither a State nor its officials
14 acting in their official capacity are 'persons' under § 1983." *Will v. Michigan Dept.*
15 *of State Police*, 491 U.S. 58, 71 (1989). Likewise, "arms of the State" such as the
16 Department of Corrections and the Coyote Ridge Corrections Center are not
17 "persons" amenable to suit under 42 U.S.C. § 1983. *Id.*, at 70.

18 After reviewing the record and for the reasons set forth by the Magistrate
19 Judge, **IT IS ORDERED** the Report and Recommendation, ECF No. 27, is
20 **ADOPTED in its entirety.** Defendants Department of Corrections and Coyote
ORDER AFFIRMING ORDER, ADOPTING REPORT AND
RECOMMENDATION, AND DISMISSING DEFENDANTS DEPARTMENT
OF CORRECTIONS AND COYOTE RIDGE CORRECTIONS CENTER -- 3

1 Ridge Corrections Center are **DISMISSED**. The District Court Executive is
2 directed to **TERMINATE** these Defendants from this action.

3 **COPIES**

4 Plaintiff has inundated the Court with multiple copies of each document he
5 has submitted. The Court finds this is an unnecessary waste of paper and judicial
6 resources. Therefore, at this time, Plaintiff shall *suspend* submitting copies until
7 specifically directed to do so by Magistrate Judge Hutton or the undersigned
8 judicial officer.

9 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
10 Order and forward a copy to Plaintiff.

11 **DATED** this 10th day of July 2012.

12
13 *s/ Rosanna Malouf Peterson*
14 ROSANNA MALOUF PETERSON
15 Chief United States District Court Judge
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ORDER AFFIRMING ORDER, ADOPTING REPORT AND
RECOMMENDATION, AND DISMISSING DEFENDANTS DEPARTMENT
OF CORRECTIONS AND COYOTE RIDGE CORRECTIONS CENTER -- 4